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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/597,196

06/20/2000

John Zimmerman

US000127

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7590

07/14/2009

PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P.O. BOX 3001

BRIARCLIFF MANOR, NY 10510

EXAMINER

SHINGLES, KRISTIE D

ART UNIT

PAPER NUMBER

2444

MAIL DATE

DELIVERY MODE

07/14/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	Application No. 09/597,196	Applicant(s) ZIMMERMAN, JOHN	
	Examiner KRISTIE D. SHINGLES	Art Unit 2444	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 May 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 5,7,9,10 ans 12-25.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/William C. Vaughn, Jr./
Supervisory Patent Examiner, Art Unit 2444

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments have been considered but are not persuasive.

Applicant argues that there is no detailed rejection of independent claims 5 and 9. Examiner respectfully disagrees. A close analysis of the independent claims proves that there are obvious similarities and equivalencies in the claim language. Claim 14 is more detailed than claims 5 and 9 therefore the reasoning used for rejecting the limitations of claim 14 can also be extended to the broad limitations of claims 5 and 9. The grouping of the claims is warranted based on the similarities of their claim language and scope, which does not require repetitive rejections if the limitation has already been addressed. For example, claim 9 contains limitations that are equivalent to claim 16 (incorporating parent claim 14), therefore the same teaching applied to the limitations of claims 14 and 16 are also applicable to claim 9. The detailed rejections of claims 14 and 16 are likewise sufficient for claim 9.

Applicant argues that the motivation to use a smart card would require "substantial reconstruction or redesign or a change in basic operating principles of Venkatraman's system". Examiner respectfully disagrees. Venkatraman's invention of a system for device access and control using embedded web access functionality is implemented on devices that are operable with smart cards such as "communication and telephony devices, home entertainment devices, such as televisions, video and audio devices...[and] computer peripheral devices including mass storage units" (col.4 lines 21-25). Thus using smart cards is not far-reaching or destructive to Venkatraman's system for device access and control using embedded web access functionality, but is an obvious improvement upon the usage and compatibility of smart cards and smart card devices taught in Tan et al's invention for using smart cards at a "workstation...client terminal or computing device, such as a personal computer or web-enabled wireless device (page 2 paragraph 0013). Applicant's argument is therefore unpersuasive.

Applicant argues the motivation for combining the teachings of Venkatraman et al with Tan et al and Horn et al is an "unsupported conclusion". Examiner respectfully disagrees. As stated in the rejection, "...accessing customer/user profiles maintained in an external/remote server is obvious and well-known in the art...". The collection of data particular to a specific user, the maintenance of that particular user data, and the accessibility to it for controlling a user device or management of a user account are well-known occurrences in the networking technology and are obvious to one of ordinary skill in the art when handling user information. Applicant's argument is therefore unpersuasive.

Applicant argues that the cited prior art fails to teach a relay server and a profile server. Examiner respectfully disagrees. The citations of the rejection teach the functionality of a profile server and relay server realized through the embodiments of the cited prior art. Applicant's characterization of the profile server and relay server as external/remote entities does not preclude the teaching of the prior art, since it is well-known in the art that the server functionality may be in the form of software or hardware and the determination of novelty is not based on the title given to the server/device, but the functionality performed by it. Maintaining user data/profiles in a specific storage location/device and using a server/mechanism to address and access that specific location/device are broad and well-known concepts that have been provided for in the cited prior art. Applicant's arguments are therefore unpersuasive and the rejections under the cited prior art are maintained.